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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,558	11/18/2002	Paul S. Lafata	TRM TR990031	4488
32047	7590	06/30/2005	EXAMINER	
GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC 55 SOUTH COMMERICAL STREET MANCHESTER, NH 03101			LUK, EMMANUEL S	
			ART UNIT	PAPER NUMBER
			1722	
DATE MAILED: 06/30/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/089,558

Applicant(s)

LAFATA ET AL.

Examiner

Emmanuel S. Luk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18-21 and 24-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-21 and 24-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 31-34 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The claimed plastic material and properties of the plastic material used during the process for the apparatus is an intended use and does NOT further limit the structural limitations.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 26-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hepler (5334006).

Hepler teaches the claimed invention having a mold (12) with an edge gate (Col. 5, lines 6-12) and interchangeable tip of the sprue bushing (10). The tip (39) containing the edge gates being interchangeable (Col. 6, lines 4-10), thereby the gates being interchangeable. The cavity located between the first and second mold sections, the second mold section having a recess (28) that allows for the gate design mold member to be insertable (Fig. 2). Hepler teaches threads (41,37) that attaches the tips (39) to the body (30). The tip with the gate edge is inserted into the recess of the mold and is thus removably attachable.

The interchangeable tips (and gates) as taught by Hepler would have been obvious to one of ordinary skill in the art to recognize first and second gates that are interchangeable placed on the apparatus.

Hepler fails to teach a second gate design having a different size and configuration.

Hepler already teaches the first and second gate designs mold members are attachable to the bushing via threaded fasteners with the different numbers of gates leaving the tip with different gate sizes (see Fig. 9 and Fig. 10). A second gate design having a different size and configuration is merely a change in size and shape. Hepler already teaches a second gate with a different configuration in the design of the gate. Thus, it would have been obvious to one ordinary skill in the art to modify Hepler with a second gate having a different size and configuration because it allows for design choice by the user.

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In regards to claims 31-34, these are intended use of the materials for the apparatus and do not have any structural limitations. The plastic material used during the process for the apparatus is an intended use and does NOT further limit the structural limitations.

5. Claims 18-21, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hepler (5334006).

Hepler teaches the claimed invention having a mold (12) with an edge gate (Col. 5, lines 6-12) and interchangeable tip of the sprue bushing (10). The tip (39) containing the edge gates being interchangeable (Col. 6, lines 4-10), thereby the gates being interchangeable. The cavity located between the first and second mold sections, the second mold section having a recess (28) that allows for the gate design mold member to be insertable (Fig. 2). The process of operating the invention is the same as the claimed method. Hepler already teaches the first and second gate designs mold members are attachable to the bushing via threaded fasteners with the different numbers of gates leaving the tip with different gate sizes (see Fig. 9 and Fig. 10). Hepler teaches threads (41,37) that attaches the tips (39) to the body (30). The tip with the gate edge is inserted into the recess of the mold and is thus removably attachable.

The intended use of the invention for producing articles with pigments is located in the preamble. The preamble containing intended use does not limit the claim unless it recites 'essential structure or steps' and gives 'life, meaning, and validity' to the claims. *Intirtool, Ltd v. Texar Corp.* (2004 U.S. App. LEXIS 9055).

Hepler already teaches the first and second gate designs mold members are attachable to the bushing via threaded fasteners with the different numbers of gates leaving the tip with different gate sizes (see Fig. 9 and Fig. 10). A second gate design having a different size and configuration is merely a change in size and shape. Hepler already teaches a second gate with a different configuration in the design of the gate. Thus, it would have been obvious to one ordinary skill in the art to modify Hepler with a second gate having a different size and configuration because it allows for design choice by the user.

In regards to claims 24 and 25, the first and second gate designs mold members are attachable to the bushing via threaded fasteners.

### **Response to Arguments**

6. Applicant's arguments have been considered, however in response to the arguments concerning Hepler and the configurations of the edge gates, this has been addressed in the rejection. Hepler is capable of operating according to the claimed invention and it would have been obvious to one of ordinary skill in the art to modify the exchangeable inserts of Hepler with different configuration and sizes. The arguments concerning the tip not being fastened to the mold has been noted, however, the tip is fastened to a body which is in turn inserted into the recess of the mold. This insertion allows for the tip to be removably attachable and is part of the mold when the tip is inserted. In regards to the arguments concerning pigments, for claims 26-34, Hepler merely needs to teach the structure and not the process of operating. Hepler teaches

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an interchangeable gate structure of a mold and is thus capable of operating similar to the claimed invention.

**Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel S. Luk whose telephone number is (571) 272-1134. The examiner can normally be reached on Monday-Thursday 8 to 5 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Davis can be reached on (571) 272-1129. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EL

  
ROBERT DAVIS  
PRIMARY EXAMINER  
GROUP 1300 / 1700

6/22/05